

**KENTUCKY PERSONNEL BOARD  
MINUTES OF MARCH 11, 2016**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Larry Gillis on March 11, 2016, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Larry B. Gillis, Vice Chairman  
David B. Stevens, Member  
David F. Hutcheson, Jr., Member  
Tommy W. Chandler, Member  
Amanda Cloyd, Member  
Mark A. Sipek, Executive Director and Secretary  
Boyce A. Crocker, General Counsel  
Cynthia Perkins, Administrative Section Supervisor  
Gwendolyn McDonald, Administrative Specialist

Board Personnel Absent:

Brian J. Crall, Member  
D. Brian Richmond, Member

2. **READING OF THE MINUTES OF REGULAR MEETING HELD FEBRUARY 12, 2016**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Gillis asked for additions or corrections. Ms. Cloyd moved to approve the minutes, as submitted. Dr. Stevens seconded and the motion carried 5-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek advised that two new members were appointed to the Board, Mr. Brian Crall and Mr. D. Brian Richmond. Unfortunately, they could not make it to the meeting. [Mr. Crall replaces Mr. Doug Sapp, whose term had expired.] Mr. Crall was former Secretary to the Personnel Cabinet. [Mr. Richmond replaces Mr. William Sheekles, whose term had expired.]

At the conclusion of Mr. Sipek's report, Chairman Gillis called for the Personnel Cabinet's report.

#### 4. **PERSONNEL CABINET'S REPORT**

Secretary Thomas Stephens and the Hon. Lesley Bilby came forward to present the Personnel Cabinet's report.

Ms. Bilby stated that the Cabinet is in the process of reviewing nine applications for the Kentucky Employees Charitable Campaign (KECC).

Ms. Bilby stated that participants in the health plan have until May 1, 2016, to complete the Living Well Promise. She stated that there is good participation so far. The Cabinet is in the process of working up contracts for on-site clinics, due by April 12. Clinics are located at the Transportation Cabinet, Cabinet for Health and Family Services, Capital Plaza Tower and the Capital Annex.

Mr. Stephens addressed the recent situation at the Cabinet for Health and Family Services regarding an "active shooter," and how the information unfolded by social media (i.e. Twitter, etc.). The Personnel Cabinet is working on a pilot project that will enable a text messaging alert system to cell phones concerning safety and welfare or weather event. The Cabinet is also working on a policy and procedure; hopefully it will be ready by the middle of summer.

Mr. Sipek stated that the proposed hiring procedures the Cabinet presented last month had a lot of good ideas and improvements. Mr. Stephens stated that he reviewed the Blue Ribbon Task Force from 2006 to see what worked or did not work, of which Mr. Brian Crall was Chairman.

#### 5. **ORAL ARGUMENTS**

A. ~~James Cheatham v. Transportation~~ (Request by Appellee)  
**MOVED TO APRIL BOARD**

B. **Charles Cofer v. Transportation** (Request by Appellant)

Present for oral arguments were counsel for Appellant, the Hon. Sam Hayward, and counsel for Appellee, the Hon. William Fogle. After presenting oral arguments, the parties answered questions from the Board.

C. **Angelica F. Dailey v. Justice and Public Safety Cabinet/Corrections**  
(Request by Appellee)

Present for oral arguments were counsel for Appellant, the Hon. Dustin Riddle, and counsel for Appellee, the Hon. Stafford Easterling. After presenting oral arguments, the parties answered questions from the Board.

## 6. CLOSED SESSION

Mr. Hutcheson moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Dr. Stevens seconded. Chairman Gillis stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 5-0. (10:42 a.m.)

Dr. Stevens moved to return to open session. Ms. Cloyd seconded and the motion carried 5-0. (11:24 a.m.)

## 7. CASES TO BE DECIDED

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

- A. ~~James Cheatham v. Transportation (2015-112)~~  
~~(Dismissal—Guilty plea to a felony conviction—Dismissed)~~  
--Appellant's Exceptions  
--Appellee's Response and Request for Oral Argument  
--Agreed Order by the Parties  
**MOVED TO APRIL BOARD**

- B. **Charles Cofer v. Transportation (2009-068)**  
**(Remand from Franklin Circuit Court)**

Ms. Cloyd, having noted Appellant's exceptions, Appellee's response and oral arguments, moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 5-0.

- C. **Angelica F. Dailey v. Justice and Public Safety Cabinet/Corrections**  
**(2014-321) (On Remand)**

Judge Chandler, having noted Appellee's exceptions, Appellant's response and oral arguments, moved to defer this matter to the next Board meeting. Ms. Cloyd seconded and the motion carried 5-0.

**D. Ellenoré Callan v. Cabinet for Health and Family Services (2015-082)**

Mr. Hutcheson, having noted Appellee's exceptions and Appellant's response, moved to defer this matter to the next Board meeting. Ms. Cloyd seconded and the motion carried 5-0.

**E. Stephanie Hodges v. Cabinet for Health and Family Services (2015-053)**

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Ms. Cloyd seconded and the motion carried 5-0.

**F. Eric Jessee v. Finance and Administration Cabinet (2014-303)  
Deferred from February Meeting**

Ms. Cloyd moved to accept the Final Order altering the recommended order, as attached to the minutes, dismissing the appeal. Dr. Stevens seconded and the motion carried 5-0.

**G. Franklin McGowan v. Education and Workforce Development Cabinet (2015-192)**

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 5-0.

**H. Lynne H. Stewart v. Cabinet for Health and Family Services (2015-107)**

Judge Chandler moved to accept the recommended order sustaining the appeal. Dr. Stevens seconded and the motion carried 5-0.

**I. Matt True v. Transportation Cabinet (2015-236)**

Ms. Cloyd moved to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 5-0.

**Show Cause Orders – No Response Filed – Appeals Dismissed**

Mr. Hutcheson moved to find that the Appellants had not responded to the show cause orders and that the recommended orders be accepted dismissing the appeals for failure to timely prosecute the appeals. Dr. Stevens seconded and the motion carried 5-0.

**J. Amanda G. Goins v. Education and Workforce Development Cabinet (2015-115)**

**K. William E. Ludwig v. Justice and Public Safety Cabinet/Corrections (2015-306)**

8. **WITHDRAWALS**

Dr. Stevens moved to accept the following withdrawal of appeals *en bloc* and to dismiss the appeals. Ms. Cloyd seconded and the motion carried 5-0.

- A. Kelsey Cochran v. Veterans Affairs (2015-265)
- B. Christopher Conway v. Transportation Cabinet (2015-322)
- C. Vincent Gross v. Justice and Public Safety Cabinet/Juvenile Justice (2016-024)
- D. James Lawson v. Transportation Cabinet and Personnel Cabinet (2015-341)
- E. Joni Whiting v. Personnel Cabinet (2016-037)

9. **SETTLEMENTS**

Judge Chandler moved to issue a settlement order and to sustain the appeal to the extent set forth in the settlement as submitted by the parties. Mr. Hutcheson seconded and the motion carried 5-0.

- A. Regina Martin v. Justice and Public Safety Cabinet/Corrections (2015-270)


10. **OTHER**

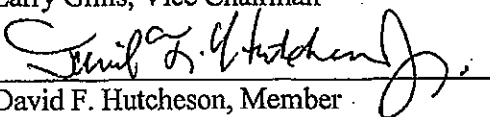
Mr. Crocker reminded the Board members that the next meeting is April 15, 2016.

Mr. Sipek stated that he and Mr. Crocker had Appointing Authority given to them by former Chairman Doug Sapp. Mr. Sipek requested that Vice Chair Gillis have the authority to delegate appointing authority to him and Mr. Crocker.

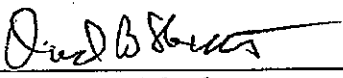
Mr. Hutcheson moved to approve that Vice Chair Gillis have authority to delegate Appointing Authority to Mr. Sipek, Executive Director, and Mr. Crocker, General Counsel. Ms. Cloyd seconded and the motion carried 4-0, with Mr. Gillis recusing.

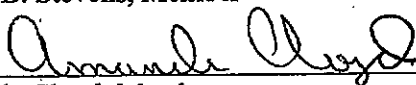
There being no further business, Dr. Stevens moved to adjourn. Mr. Hutcheson seconded and the motion carried 5-0. (11:30 a.m.)

  
\_\_\_\_\_  
Larry Gillis, Vice Chairman

  
\_\_\_\_\_  
David F. Hutcheson, Member

\_\_\_\_\_  
Tommy W. Chandler, Member

  
\_\_\_\_\_  
David B. Stevens, Member

  
\_\_\_\_\_  
Amanda Cloyd, Member

8. The evidence clearly showed that Mr. Jessee and Mr. Doss were hired and working in the same class and in the same county. The deciding question is whether Mr. Jessee had a “similar combination of education and experience relating to the job classification” as Mr. Doss. Although the one- year standard used by this Cabinet may vary from standards used by other Cabinets, it was not unreasonable for Appellee to have used such standard as they have used it consistently over a period of several years.

B. **Delete** Conclusions of Law numbers 14, 15 and 16:

**IT IS HEREBY ORDERED** that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be, and they hereby are approved, adopted and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

**SO ORDERED** this 16<sup>th</sup> day of March, 2016.

**KENTUCKY PERSONNEL BOARD**

  
\_\_\_\_\_  
**MARK A. SIPEK, SECRETARY**

A copy hereof this day mailed to:

Hon. Katherine Fitzpatrick  
Eric Jessee